

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

| | | |
|-------------------------|---|-----------------------|
| REMY AUGUSTIN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| -vs- |) | Case No. CIV-09-465-F |
| |) | |
| UNITED STATES BUREAU OF |) | |
| PRISONS, |) | |
| |) | |
| Defendant. |) | |

ORDER

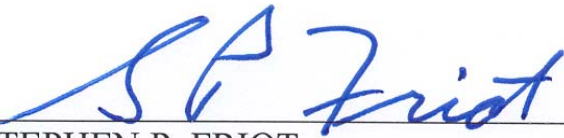
After conducting an initial review of plaintiff, Remy Augustin's complaint, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation, wherein he recommended that plaintiff's action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), be dismissed without prejudice for failure to state a claim, but that plaintiff be granted leave to amend his complaint within 20 days of any order adopting the Report and Recommendation.

Presently before the court is plaintiff's timely objection to Magistrate Judge Argo's Report and Recommendation. Having conducted a *de novo* review of the matter in accordance with 28 U.S.C. § 636(b)(1), the court concurs with the recommended ruling. The court accepts, adopts and affirms Magistrate Judge Argo's Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on July 27, 2009 (doc. no. 14) is **ACCEPTED**, **ADOPTED**, and **AFFIRMED**. Plaintiff, Remy Augustin's action against defendant,

United States Bureau of Prisons, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim. Plaintiff, however, is **GRANTED** leave to amend his complaint within 20 days of the date of this order.¹ If plaintiff fails to file an amended complaint within 20 days, the court shall enter judgment dismissing plaintiff's action without prejudice.

DATED August 18, 2009.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

09-0465p002.wpd

¹With his objection to Magistrate Judge Argo's Report and Recommendation, plaintiff has filed a document entitled "Amend Affidavit of Support to Claim." The court declines to construe the document as an amended complaint. Plaintiff must, within 20 days, file an amended complaint, which sets forth his constitutional claim or claims under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), against the federal official or officials involved in the incident testified to in the "Amend Affidavit of Support to Claim."